

NASHUA CITY PLANNING BOARD
May 19, 2016

The regularly scheduled meeting of the Nashua City Planning Board was held on Thursday, May 19, 2016 at 7:00 PM in Room 208, 2nd floor at City Hall.

Members Present: Adam Varley, Chair
Michael Pedersen, Mayor's Rep.
Dan Kelly, Secretary
Steve Dookran, City Eng.
David Robbins
Ed Weber
Kristen McQuaide, alt.

Also Present: Roger Houston, Planning Director
Linda Panny, Deputy Planning Manager

Mr. Varley said Mrs. McQuaide will be participating and voting.

Approval of Minutes

May 5, 2016

Mr. Pedersen said his name is misspelled throughout the document. The correct spelling is "Pedersen" not "Pederson".

MOTION by Mr. Robbins to approve the minutes of April 7, 2016, as amended.

SECONDED by Mr. Kelly

MOTION CARRIED 5-0, 2 ABSTENTIONS

COMMUNICATIONS

Mr. Houston went over the following items that were received after the mailing went out:

-) Amended agenda
-) New staff report re: Case #1
-) Request for postponement re: Case #2
-) Communication from abutter re: Case #3
-) Communication from Jeanne Walker re: Case #4
-) Preliminary agenda

REPORT OF CHAIR, COMMITTEE & LIASON

None

PROCEDURES OF THE MEETING

Mr. Varley went into the procedure of the meeting as follows: After the legal notice of each conditional, special use permit, site plan or subdivision plan is read by the Chair, the Board will determine if that the application is complete and ready for the Board to take jurisdiction. The public hearing will begin at which time the applicant or representative will be given time to present an overview and description of their project. The applicant shall speak to whether or not they agree with recommended staff stipulations. The Board will then have an opportunity to ask questions of the applicant or staff.

The Chair will then ask for testimony from the audience. First anyone wishing to speak in opposition or with concern to the plan may speak. Please come forward to the microphone, state their name and address for the record. This would be the time to ask questions they may have regarding the plan. Next public testimony will come from anyone wishing to speak in favor of the plan. The applicant will then be allowed a rebuttal period at which time they shall speak to any issues or concerns raised by prior public testimony.

One public member will then be granted an opportunity to speak to those issues brought by the applicant during their rebuttal period. The Board will then ask any relevant follow-up questions of the applicant if need be.

After this is completed the public hearing will end and the Board will resume the public meeting at which time the Board will deliberate and vote on the application before us. The Board asks that both sides keep their remarks to the subject at hand and try not to repeat what has already been said.

Above all, the Board wants to be fair to everyone and make the best possible decision based on the testimony presented and all applicable approval criteria established in the Nashua Revised Ordinances for conditional, special use permits, site plans and subdivisions. Thank you for your interest and courteous attention. Please turn off your cell phones and pagers at this time.

OLD BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

OLD BUSINESS - SUBDIVISION PLANS

None

OLD BUSINESS - SITE PLANS

None

NEW BUSINESS - CONDITIONAL/SPECIAL USE PERMITS

None

NEW BUSINESS - SUBDIVISION PLANS

1. Andrea James Realty, LLC and Bedek Realty, LLC (Owners) - Application and acceptance of proposed subdivision and lot line relocation plan. Property is located at 93 & 97 Daniel Webster Hwy and "L" West Hobart St. Sheet 128 - Lots 23, 33, & 81. Zoned "HB" Highway Business and "RA" Urban Residence. Ward 7. **(Postponed from the May 5, 2016 Meeting)**

MOTION by Mr. Robbins that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Weber

MOTION CARRIED 7-0

Richard Maynard, Maynard & Paquette Engineering

Mr. Maynard introduced himself as representing the applicant. He gave an overview of the project. He said the applicant is requesting a waiver for providing an existing conditions plan.

Mr. Varley asked about the change to note #11 on the plan.

Mr. Maynard said the note was supplemented with the following sentence: "The following lots 143, 38, 33, 32 31 and 84 may have easement rights in the former West Hobart Street". This note will be included on the official plan.

Mr. Weber said when he visited the site and the streets seemed to be in poor condition.

Mr. Maynard said at least 80 feet of frontage has to be up to City standards; the remaining road will need to be rebuilt and repaved so that it is reasonably accessible. A lot of these issues will be resolved during site plan review.

SPEAKING IN OPPOSITION OR CONCERN

Kerry Sienkiewicz, 344 Osgood Rd, Milford, NH

Mr. Sienkiewicz spoke on behalf of his mother, Marilyn Sienkiewicz, owner and resident of 117 West Hobart St. He expressed concerns with access to his mother's property.

Mr. Weber asked if Mrs. Sienkiewicz is able to access her property currently.

Mr. Sienkiewicz said she currently accesses her property through a 15ft. ROW from the top of West Glenwood St. The back end of the property is accessed through Stetson St, where many vehicles continue to park and block access.

Mr. Varley said he understands that Attorney Morgan Hollis had submitted a letter on behalf of Mrs. Sienkiewicz. The Board understands that these concerns were resolved satisfactorily.

Mr. Sienkiewicz he wanted to ensure that he represented his mother's concerns this evening.

SPEAKING IN FAVOR

Attorney Gerald Prunier, Prunier & Prolman, P.A.

Attorney Prunier introduced himself and said he represents the applicant. He understands the issues the Sienkiewicz's have. It is important to he and Mr. Mello that Sexton Ave remains a City street so that the Sienkiewicz's have access to their property as they may want to develop it in the future.

Mr. Maynard said the proposed plan will not affect access at West Hobart St.

MOTION by Mr. Weber to approve New Business - Subdivision Plan #1. It conforms to § 190-138(G) with the following stipulations and waivers:

1. The request for a waiver of § 190-282(B)(9), which requires an existing conditions plan, is/is not granted, finding that the waiver will/will not be contrary to the spirit and intent of the regulation.

2. Prior to recording the plan, all comments in a letter from Jeanne Walker, P.E. dated April 12, 2016 shall be addressed to the satisfaction of the Engineering Department.
3. Prior to recording the subdivision plan, the site plans for 93 & 97 Daniel Webster Highway shall be amended.
4. All easements will be submitted to Planning staff and Corporation Council for review and recorded with the plan at the applicant's expense.

SECONDED by Mr. Kelly

MOTION CARRIED 7-0

NEW BUSINESS - SITE PLANS

2. LINRICH, LLC (Owner) - Application and acceptance of proposed site plan amendment to NR1615 to demolish one building and construct an addition to the remaining building. Property is located at 172-174 (180) Daniel Webster Highway. Sheet A - Lot 983. Zoned "HB" Highway Business and GI-General Industrial. Ward 7. **(Postponed to the June 2, 2016 meeting.)**
3. Trafalgar Square Trade Center, A Condominium (Owner) Pfeiffer Vacuum (Applicant) - Application and acceptance of proposed site plan amendment to NR1867 to construct a 2-story 27,745 sf building addition and associated site improvements. Property is located at 24 Trafalgar Square. Sheet G - Lot 654. Zoned "PI" Park Industrial. Ward 2.

MOTION by Mr. Kelly that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Weber

MOTION CARRIED 7-0

Tom Zajac, Hayner/Swanson, Inc.

Mr. Zajac introduced himself as representing the applicant. He said Bob Campbell, President of Pfeiffer Vacuum, Attorney Rolf Goodwin and Attorney Gerald Prunier were also present. He gave an overview of the project. He said the applicant is requesting a waiver for building design standards, specifically regarding the proposed flat roof. The new addition will match the architectural design of the existing buildings.

Mr. Varley said the Board received a letter from a resident of Cannongate Condos. The resident raised concerns with the sufficiency of the vegetation used as a border between the properties. He asked Mr. Zajac to address this concern.

Mr. Zajac said he and Mr. Campbell reviewed the letter. Original site plan approvals for both Cannongate Condos and the Trafalgar Square property had stipulations regarding landscaping. It appears the required landscaped border still exists. The vegetation will remain as it is today.

Mr. Weber said there is currently an open dumpster at the front of the building. Will this be enclosed?

Mr. Zajac said yes.

Mr. Weber said there are also a number of dumpsters within Trafalgar Square and these need to be enclosed.

Mr. Kelly asked how the function of the business will change, if it all. He said abutters have voiced concerns with noise coming from the site, and whether or not this noise will increase.

Bob Campbell, President, Pfeiffer Vacuum

Mr. Campbell said in 2010, Pfeiffer acquired one of its major competitors. Both the Hingham, MA and Nashua facilities have similar sales and administration functions. The activity will be pretty much the same; there will be no real change to the scope of the work they do.

Mr. Kelly recommended that Mr. Campbell meet with the abutter to discuss concerns.

Mr. Varley said, based on the letter, the abutter's main concerns are with trash containment and hauling; not the operations of the facility itself.

SPEAKING IN OPPOSITION OR CONCERN

Jennifer Kamel, 234 Cannongate III Rd

Ms. Kamel said the Cannongate III condo association did not notify residents of this meeting until late Tuesday night. She said her main concerns are with noise coming from the site during construction, as well as obstruction of her view with the new addition.

Mr. Weber asked if there are noise issues currently, without construction.

Ms. Kamel said she sometimes hears noise from tractor trailers or delivery vehicles entering the site. Her main concern is with construction noise.

Mr. Dookran said the City's noise ordinance applies to construction occurring within 600ft. from a residential property. He said if Ms. Kamel observes noise during prohibited times, she can notify the City.

Ms. Panny explained that because Cannongate III is a condominium association, the City is not required to notify each individual abutter. Two weeks ago, the association was notified of the meeting, and it is up to them to notify the residents.

Krista Klauber, 226 Cannongate III Rd

Ms. Klauber expressed similar concerns as Ms. Kamel regarding noise and obstruction of her view with construction of the new addition. She said she was also concerned that trees along the property line will be removed.

Mr. Varley said the applicant does not intend to remove any of the current landscaping.

Mark Maguire, 196 Cannongate III Rd

Mr. Maguire voiced similar concerns as the previous abutters regarding noise, light and traffic coming from the property. He said Pfeiffer has been a good neighbor to the condo association. He asked if there were plans to add a second story to the existing building.

Mr. Varley said the owner would need to come back to the Board to do that.

SPEAKING IN FAVOR

Attorney Gerald Prunier, Prunier & Prolman, P.A.

Attorney Prunier said, in regards to Mr. Weber's comments about dumpsters, each one of the units in that area are individually owned, but they belong to a condominium association. He said he will advise the association about the Board's concerns with trash containment. He added that it is important to note that

Pfeiffer is keeping business in New Hampshire rather than moving to Massachusetts. Regarding noise, he has been in his office in Trafalgar Square for 26 years. He was never bothered by the constriction noise when the Marriott was constructed.

Mr. Zajac reiterated that they will not be affecting the existing slope, only replacing the retaining wall. All of the existing trees, especially along Cannonagate Rd will remain in place. Pfeiffer has not been made aware of any noise or odor complaints over the years. If there are complaints, they will deal with them right away. To clarify, there will be 15 additional employees, not 50. There are no plans to expand the existing building to a second story. The original site plan approval contained a stipulation that no loading be allowed between 10:00PM and 6:00AM. Pfeiffer has been abiding by that and the applicant would be fine with having that as a stipulation of approval this evening. Regarding a construction timeline, if approved, they hope to be under construction within the next couple of months and complete the project in 6 months.

Mr. Weber asked if they will comply with the City's construction noise ordinance.

Mr. Zajac said yes.

Mr. Dookran said, for City projects, contractors often try to limit the amount of construction they do in consideration of the neighbors. He asked the applicant to be considerate of the neighbors during construction.

Mr. Weber asked if the applicant would be willing to reach out to the residents of Cannongate III and possibly hold a meeting to address any concerns.

Mr. Campbell said certainly, he would have no problem doing this.

Ms. Kamel spoke again regarding her concerns with construction noise.

Mr. Campbell said they are planning on opening this winter so they are going to try to move the project along as quickly as possible. The Pfeiffer building will remain open during construction so there will be fencing to contain the area under construction.

The Chair closed the public hearing and the Board went into deliberations.

Mr. Weber said, when he worked in construction, he would often have to obtain permits to work at certain hours during the weekend.

Mr. Varley asked staff if this was something that the City does.

Ms. Panny said not that she was aware of.

Mr. Dookran said Public Works issues these types of permits for construction in the street or private site, within 600ft. of residential property. He said he feels the Board should stipulate that construction shall not begin prior to 8:00AM.

Mr. Weber said he would not want to impose this restriction on the applicant.

Mr. Dookran said they could limit the stipulation to percussive activity only, as a compromise.

Mr. Varley asked if the stipulation regarding trash removal, part of the original site plan approval, would carry over to this new plan.

Ms. Panny said she recommends the Board add this stipulation to this new site plan approval.

MOTION by Mr. Weber to approve New Business - Site Plan #3. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-172(C), which sets building design standards, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. Prior to the issuance of a building permit, stormwater documents will be submitted to City staff for review and approval and recorded at the Registry of Deeds at the applicant's expense.
3. Prior to the issuance of a certificate of occupancy, all site improvements will be completed.
4. No outside percussive work before 8:00AM.
5. Deliveries and trash removal are prohibited between 10:00PM and 6:00AM.

Mr. Kelly said restricting hours of construction to an 8:00AM Saturday start will not resolve the issues of noise occurring during the week.

MOTION by Mr. Kelly to amend Mr. Weber's motion by removing stipulation #4.

SECONDED by Mr. Robbins

MOTION FAILED 3-4

MOTION by Mr. Varley to approve Mr. Weber's original motion, with five (5) stipulations.

SECONDED by Mr. Robbins

MOTION CARRIED 6-1 (Mr. Kelly opposed)

4. BT-Newyo, LLC (Owner) - Application and acceptance of proposed site plan amendment to NR1517 to construct a 20,000 sf building and associated site improvements. Property is located at 3 Whipple Street. Sheet E - Lot 1423. Zoned "PI" Park Industrial. Ward 4.

MOTION by Mrs. McQuaide that the application is complete and the planning board is ready to take jurisdiction.

SECONDED by Mr. Weber

MOTION CARRIED 7-0

Tom Greer, Pinkham & Greer Consulting Engineers

Mr. Greer introduced himself as representing the applicant. He said a representative from UPS and the project's traffic engineer was also present. He gave an overview of the project. He said the applicant is requesting two waivers for building design standards and landscaping requirements.

Mr. Varley asked if there will be a need for offsite parking during the construction phase.

Mr. Greer said he did not think so. He anticipates that the construction staging area will be set up on site.

Mr. Varley said, based on the testimony, traffic will occur during the night and will not have any impact on the street parking.

Mr. Greer said that is correct.

Mr. Varley asked how much they will be cutting into the existing wooded buffer.

Mr. Greer indicated this area on the plan. He said 3 acres or so will be cleared.

Mr. Weber said there are two dumpsters on the existing site that are not enclosed, and they need to be. He asked if the steep slope will be taking care of.

Mr. Greer said this portion of the site will be brought up to be just about even.

Mr. Weber asked the site visibility of trucks entering and exiting the site from Whipple St.

Mr. Greer said there are currently two parking spaces on the corner of the cul-de-sac. Those will be posted "No Parking" to allow for truck drivers to see anyone coming around the cul-de-sac. Sight distance up the street is good.

Mr. Dookran said he is glad there is going to be an arrangement with the City to allow for parking.

Mr. Greer said there is no formal agreement in place but the lot will be empty and available this summer.

Mr. Dookran said the City has a lease with UPS which is due to end in September.

SPEAKING IN OPPOSITION OR CONCERN

None

SPEAKING IN FAVOR

None

Mr. Dookran said there is a potential for people to queue up onto the turnpike during the AM rush hour. Does the traffic report include numbers for the AM peak commute?

Sam Gregorio, Traffic Engineer, TEC, Inc.

Mr. Gregorio said during the AM peak, there are only 3 trips.

Mr. Dookran said this new facility is going to be different than the existing facility.

Mr. Gregorio said yes, the new portion of the facility will operate on a different schedule. There will not be a large impact to traffic.

Mr. Dookran asked if there are plans to change the operations of the new facility.

Mr. Gregorio said no.

Mr. Weber asked how many employees will be on site.

Mr. Greer said employees will be in the parking lot just before and just after the operation hours of the new facility, 11pm to 6am.

Mr. Varley said the traffic report indicates that an employee's shift runs from 3:30PM to 9PM. He asked for clarification of the operational hours.

Mr. Gregorio said the 3:30PM to 9PM time frame refers to employees coming in for their shifts. Shifts run from 3:30PM to 9PM, and 9PM to 3:30AM.

Unknown, Northeast District Manager, UPS

Unknown said they will take care of the dumpsters on site immediately. He said the activities on the new site will pertain to transportation as opposed to deliveries. He spoke in regards to traffic associated with the new facility.

Ms. Panny said if the Board decides to approve the plan, there is a letter from Jeanne Walker dated May 18, 2016, which should be incorporated into stipulation #4.

Mr. Weber proposed adding a stipulation regarding enclosing the existing dumpsters.

Mr. Varley said this is already a requirement of site plan approval. He asked if the Board should restrict hours of operation.

Ms. Panny said it is difficult to enforce compliance with operation hours. However, the Board could stipulate that the owner come back before the Board if they change the hours of operation for the new facility.

MOTION by Mr. Weber to approve New Business - Site Plan #4. It conforms to § 190-146(D) with the following stipulations or waivers:

1. The request for a waiver of NRO § 190-172(B) and (C), which sets building design standards, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
2. The request for a waiver of § 190-184(D) which requires a landscape median for every ten interior parking spaces, is granted, finding that the waiver will not be contrary to the spirit and intent of the regulation.
3. Prior to the issuance of a building permit, stormwater documents will be submitted to City staff for review and approval and recorded at the Registry of Deeds at the applicant's expense.
4. Prior to the issuance of a building permit, all comments in letter from Jeanne Walker, PE dated May 18, 2016 shall be addressed to the satisfaction of the Engineering Department.
5. Prior to any site disturbance, the Alteration of Terrain Permit for the project shall be approved by NHDES.
6. Any gates or chains that are across the connecting access be maintained and kept clear of snow and debris so it can be used as emergency access.
7. Any work within the right-of-way shall require a financial guarantee.
8. Prior to the issuance of a certificate of occupancy, all site improvements will be completed.
9. If hours of operations change significantly applicant has to do a new traffic study and present it to staff to determine if a site plan amendment is required.

SECONDED by Mr. Kelly

MOTION CARRIED 7-0

OTHER BUSINESS

1. Review of tentative agenda to determine proposals of regional impact.

MOTION by Mr. Kelly that there are no items of regional impact.

SECONDED by Mrs. McQuaide

MOTION CARRIED 7-0

DISCUSSION ITEMS

The Board discussed Attorney Buckley's presentation regarding the Board's role in creating stipulations of approval. Mr. Weber voiced concerns with lack of enforcement for dumpsters.

Mr. Houston said there are two steps taken to ensure site plan compliance. There is a pre-construction conference, where the plan, with notes, as well as approval stipulations, is discussed. There is also an inspection that occurs at the time of Final CO.

Mr. Weber asked if the Board needs to make stipulations of approval specific to dumpsters.

Mr. Houston said dumpster should be shown on the plan, and should be included as a note on the plan.

MOTION to adjourn by Mr. Kelly. Meeting adjourned at 10:12pm.

APPROVED:

Adam Varley, Chair, Nashua Planning Board

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DIGITAL COPY OF AUDIO OF THE MEETING MAY BE MADE AVAILABLE UPON 48 HOURS ADVANCED NOTICE AND PAYMENT OF THE FEE.

Prepared by: Mindy Lloyd

Taped Meeting